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JUL 30 2013

## UNITED STATES DISTRICT COURT

Middle for the District of TennesseeU.S. DISTRICT COURT  
MID. DIST. TENN.Enrique V. Guzman-Fivera  
Petitioner

v.

Case No. \_\_\_\_\_  
(Supplied by Clerk of Court)Immigration Customs & Enforcement, et al  
Respondent  
(name of warden or authorized person having custody of petitioner)

## PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

## Personal Information

1. (a) Your full name: Enrique V. Guzman-Fivera  
(b) Other names you have used: \_\_\_\_\_
2. Place of confinement:  
(a) Name of institution: Blount Correctional Complex Site II  
(b) Address: 1045 Horsehead Rd (U-9/3B)  
Pikeville TN 37367  
(c) Your identification number (if any): 439399
3. Are you currently being held in custody based upon orders issued by:  
☒ State authorities      ☒ Federal authorities      ☐ Other - explain: \_\_\_\_\_
4. Are you currently:  
☐ A pretrial detainee (awaiting trial on criminal charges)  
☒ Serving a sentence (of incarceration, parole, probation, etc.) after having been convicted of a crime  
If you are currently serving a sentence, answer the following:  
(a) Name and location of the court(s) that sentenced you: Blount Co. Circuit Court, Tennessee  
(b) Docket number(s) of the criminal case(s): C16806; C16807  
(c) Date of sentencing: June 14, 2007      4-21-07  
☒ Being held on an immigration offense  
☐ Other (explain): \_\_\_\_\_

**Decision or Action You Are Challenging**

5. What are you challenging in this petition:

- ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
- ☐ Pretrial detention
- ☒ Immigration detention
- ☒ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, your sentence was beyond the statutory maximum, was improperly calculated under sentencing guidelines, or for some other reason was illegal)
- ☐ Disciplinary proceedings
- ☐ Other (explain): \_\_\_\_\_

6. Give the following information about the decision or action you are challenging:

(a) Name and location of the agency or court: Immigration & Customs Enforcement (ICE)

324 Prosperity Dr, Knoxville TN 37923

(b) Docket number, case number, or opinion number (if any): Attached see Copy

(c) Decision or action you are challenging (if you are challenging disciplinary proceedings, specify the penalties imposed):

Investigation to determine Removal

(d) Date of the decision or action: 7-14-08

**How You Have Already Challenged The Decision Or Action**

☒ **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☐ No

(a) If you answered "Yes," answer the following:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number (if any): \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not appeal: \_\_\_\_\_

**Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If you answered "Yes," answer the following:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number (if any): \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not file a second appeal: \_\_\_\_\_

**Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If you answered "Yes," answer the following:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number (if any): \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not file a third appeal: \_\_\_\_\_

10. In this petition, are you challenging the validity of your conviction or sentence as imposed ?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you previously filed a motion under 28 U.S.C. § 2255 that challenged the same conviction or sentence that you are now challenging in this petition?

☐ Yes ☐ No

If "Yes," answer the following:

(1) Name of court: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Date of filing: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion in order to challenge the same conviction or sentence that you are now challenging in this petition?

☐ Yes ☐ No

If "Yes," answer the following:

(1) Name of court: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Date of filing: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: \_\_\_\_\_

11. Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," answer the following:

(a) Date you were taken into immigration custody: 7-14-08

(b) Date of the removal or reinstatement order: Still active - never removed

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☒ No

If "Yes," answer the following:

(1) Date of filing: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Result: \_\_\_\_\_

(4) Date of result: \_\_\_\_\_

(5) Issues raised: \_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☐ No

If "Yes," answer the following:

(1) Name of court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Case number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

✓ Other than the appeals listed above, have you filed any other petition, application, or motion concerning the issues raised in this petition?

☐ Yes ☐ No

If you answered "Yes," answer the following:

(a) Kind of petition, motion, or application you filed: \_\_\_\_\_

(b) Name of the authority, agency, or court in which you filed: \_\_\_\_\_  
\_\_\_\_\_

(c) Date of filing: \_\_\_\_\_

(d) Docket number, case number, or opinion number (if any): \_\_\_\_\_

(e) Result: \_\_\_\_\_

(f) Date of result: \_\_\_\_\_

(g) Issues raised: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Grounds For Your Challenge

13. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE:

Respondent's detainer is causing unconstitutional treatment that is illegal

(a) Supporting facts (State briefly without citing cases or law):

July 14, 2008 ICE placed a detainer on me that has been relied upon to deny my release on parole,

② Prohibit me from being treated equally with other inmates  
IN (TDC) prison; ③ preclude me from expiring my prison  
sentence

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

GROUND TWO:

(a) Supporting facts (State briefly without citing cases or law):

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(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☐ No

GROUND THREE:

(a) Supporting facts (State briefly without citing cases or law):

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(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

GROUND FOUR:

(a) Supporting facts (State briefly without citing cases or law):

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(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If you did not present any of the above grounds in all appeals that were available to you, explain why you did not: \_\_\_\_\_

Request For Relief

15. State exactly what you want the court to do:

Order → A detention hearing: → setting of A Bond Hearing: → Deportation (or) Removal of the detainer ICE Hold (or) set ICE Bond!

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system: \_\_\_\_\_

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States that I am the petitioner, that I have read this petition or had it read to me, and that the information contained in this petition is true and correct. I understand that any false statement of a material fact may serve as the basis for prosecution for perjury.

Date: \_\_\_\_\_

EN

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Signature of Attorney or other authorized person, if any